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HOUSE JOINT MEMORIAL 19  
**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY  
Dennis J. Roch

A JOINT MEMORIAL  
REQUESTING THE DEPARTMENT OF TRANSPORTATION TO FULFILL ITS  
STATUTORY DUTY TO REPAIR AND MAINTAIN STATE PARK ROADS, BRIDGES  
AND PARKING AREAS.

WHEREAS, Section 67-3-19 NMSA 1978, enacted by Laws 1967,  
Chapter 165, Section 1 and entitled "Duty to repair and  
maintain state park roads, bridges and parking areas", states:

"It is the duty of the state transportation commission to  
repair and maintain the public roads and highways that  
provide access to state park and recreation areas and to  
repair and maintain all roads, bridges and parking areas  
within the boundaries of the state park and recreation  
areas that will best serve the needs of the general  
public."; and

WHEREAS, in 1989, Section 67-3-14 NMSA 1978 was amended to

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1 provide that "the commission shall have no duty to maintain or  
2 supervise the maintenance of roads that are not designated  
3 state highways or bridges"; and

4 WHEREAS, in 2000, the state parks advisory committee  
5 sought an attorney general's opinion because the secretary of  
6 highway and transportation determined that the department did  
7 not have an obligation to maintain state park roads because of  
8 the apparent conflict in the statutes; and

9 WHEREAS, the attorney general determined:

10 "Thus, applying the above rules of construction, we  
11 believe that Section 67-3-19 remains a valid  
12 statement of law. It should not be deemed to have  
13 been implicitly repealed by the 1989 amendment to  
14 Section 67-3-14, especially because legislative  
15 repeals by implication are not favored in the law.  
16 If necessary, therefore, the specific directive in  
17 Section 67-3-10 [67-3-19], which applies to all  
18 public roads that provide access to state parks and  
19 recreation areas, should be read as a specific  
20 exception to the general statement in Section  
21 67-3-14(B). This construction avoids an implied  
22 repeal. . . . and instead reads the two harmoniously  
23 and gives maximum effect to each. . . . we cannot  
24 find any justification in an implied repeal of  
25 Section 67-3-19. To the contrary, the repair and

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1 maintenance of "public roads and highways that  
2 provide access to state park and recreation  
3 areas . . . will best serve the needs of the general  
4 public," as Section 67-3-19 expressly directs. That  
5 responsibility should continue unless and until a  
6 properly enacted law unequivocally changes it."; and  
7 WHEREAS, in apparent agreement with the opinion of the  
8 attorney general, the department of transportation has not  
9 tried to amend the law and, in fact, entered into an agreement  
10 with the energy, minerals and natural resources department to  
11 spend five hundred thousand dollars (\$500,000) per year for  
12 fiscal years 2005 through 2008 to repair and maintain roads,  
13 bridges and parking areas located within the boundaries of  
14 state parks; and

15 WHEREAS, it appears that the department of transportation  
16 is now refusing to extend that agreement and has told the  
17 energy, minerals and natural resources department that it will  
18 not spend any money in the foreseeable future to carry out its  
19 statutory duty in this matter;

20 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
21 STATE OF NEW MEXICO that the state transportation commission be  
22 requested to require the department of transportation to  
23 fulfill its statutory duty to repair and maintain the public  
24 roads and highways that provide access to state park and  
25 recreation areas and to repair and maintain all roads, bridges

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1 and parking areas within the boundaries of the state park and  
2 recreation areas that will best serve the needs of the general  
3 public; and

4 BE IT FURTHER RESOLVED that copies of this memorial be  
5 transmitted to the chairman of the state transportation  
6 commission, the secretary of transportation, the director of  
7 the state parks division of the energy, minerals and natural  
8 resources department, the secretary of energy, minerals and  
9 natural resources and the governor.

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